IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

WA.No. 1362 of 2007()

AGAINST THE JUDGEMENT/ORDER IN WPC.8720/2006 Dated 04/04/2007
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APPELLANT: 2ND RESPONDENT:

SUMANGALA B.,
H.S.A. MALAYALAM, IRRINGANNUR HIGHER SECONDARY SCHOOL, P.O. IRRIGANNUR, KOZHIKODE.

BY ADV. SRI.P.A.AUGUSTINE(AREEKATTEL)

RESPONDENTS: PETITIONER/RESPONDENTS 1,3 & 4:
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1. SASIKUMAR P.K.,
HIGHER SECONDARY SCHOOL TEACHER,
IRRINGANNUR HIGHER SECONDARY SCHOOL,
P.O. IRRINGANNUR, KOZHIKODE.

2. THE MANAGER,
IRINGANNUR HIGHER SECONDARY SCHOOL,
IRINGANNUR, KOZHIKODE.

3. THE DIRECTOR OF HIGHER SECONDARY EDUCATION, HOUSING BOARD BUILDINGS,
SANTHI NAGAR, THIRUVANANTHAPURAM-1.

4. THE DEPUTY DIRECTOR (ACADEMICS),
OFFICE OF THE DIRECTOR OF HIGHER SECONDARY EDUCATION, HOUSING BOARD BUILDINGS, SANTHI NAGAR, THIRUVANANTHAPURAM-1.

BY ADV. SRI.C.VALSALAN
SRI.K.RAKESH ROSHAN
GOVERNMENT PLEADER SRI.SANDESH RAJA
SRI.RONALD PAUL

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 11/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.Radhakrishnan
&
Antony Dominic, JJ.
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W.A.No.1362 of 2007
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Dated this the 11th day of June, 2007.

JUDGMENT

Radhakrishnan,J.

Appeal is preferred by the second respondent. Writ Petition was preferred by the first respondent seeking a writ of certiorari to quash Ext.P11Government Order and for a declaration that the petitioner's appointment as HSST Malayalam in Irringannur Higher Secondary School cannot be disturbed in view of judgment rendered by the Supreme Court in C.A No.7154 of 1999 and Ext.P7 Government Order and also for a declaration that the third respondent cannot have any superior claim over the petitioner in the matter of appointment to the post of HSST at Irringannur Higher Secondary School, Irringannur.

This court in WP(C) No.25370/03 had directed the Director of Higher Secondary Education to hear the petitioner, Sasikumar (first respondent herein) and the Manager of the School and to take a fresh decision. In pursuant to the above direction, the third respondent passed an order holding that the decision of the Selection Committee

was in violation of G.O.(Ms)No.121/2000/G.Edn. dated 13.4.2000. Further it was also held that the Selection Committee did not give any reasons for preferring Sasikumar rather than Sumangala. Holding so, the 3rd respondent passed of Ext.P11 order and directed the Manager to terminate the services of Sasikumar. Learned single Judge however allowed the Writ Petition and set aside Ext.P11 order, in our view rightly. Selection files would show that Sasikumar has got 61% marks at the same time the appellant got only 59%. The question of giving preference as provided under Ext.P4 would arise only if the marks are equal. Since Sasikumar obtained higher marks, he was rightly selected and approved. Writ Appeal therefore lacks merits and the same is dismissed.

K.S.Radhakrishnan,
Judge.

Antony Dominic,
Judge.

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K.S.Radhakrishnan
&
Antony Dominic, JJ.
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W.A.No.1362 of 2007
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Dated this the 13th day of June, 2007.

ORDER

Radhakrishnan,J.

Second respondent – Manager to produce selection file relating to the selection and appointment of the first respondent Sasikumar, Higher Secondary School Teacher (Mal). He has also to explain as to whether the selection committee has examined the applicability of Ext.P4 Government Order dated 13.4.2000, which says that preference will be given to real candidates in the concerned subject for appointment as Higher Secondary School Teacher. He has also to explain whether any vacancy is available so that Sumangala B. could be accommodated in the post of Higher Secondary School Teacher (Mal).

Post on 25/6/2007.

K.S.Radhakrishnan,
Judge.

Antony Dominic,
Judge.

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